

**UNPUBLISHED**

UNITED STATES COURT OF APPEALS  
FOR THE FOURTH CIRCUIT

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**No. 02-7574**

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UNITED STATES OF AMERICA,

Plaintiff - Appellee,

versus

FELIX ORIAKHI,

Defendant - Appellant.

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Appeal from the United States District Court for the District of Maryland, at Baltimore. Peter J. Messitte, District Judge. (CR-90-72, CA-02-2602-PJM)

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Submitted: December 16, 2002

Decided: December 23, 2002

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Before LUTTIG, MICHAEL, and MOTZ, Circuit Judges.

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Dismissed by unpublished per curiam opinion.

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Felix Oriakhi, Appellant Pro Se. Robert Reeves Harding, Assistant United States Attorney, Baltimore, Maryland, for Appellee.

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Unpublished opinions are not binding precedent in this circuit. See Local Rule 36(c).

PER CURIAM:

Felix Oriakhi, a federal prisoner, seeks to appeal the district court's order denying relief on his Fed. R. Civ. P. 60(b) motion and his motion filed under 28 U.S.C. § 2255 (2000). An appeal may not be taken from the final order in a § 2255 proceeding unless a circuit justice or judge issues a certificate of appealability. 28 U.S.C. § 2253(c)(1) (2000). A certificate of appealability will not issue for claims addressed by a district court on the merits absent "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2) (2000). As to claims dismissed by a district court solely on procedural grounds, a certificate of appealability will not issue unless the movant can demonstrate both "(1) 'that jurists of reason would find it debatable whether the petition states a valid claim of the denial of a constitutional right' and (2) 'that jurists of reason would find it debatable whether the district court was correct in its procedural ruling.'" Rose v. Lee, 252 F.3d 676, 684 (4th Cir.) (quoting Slack v. McDaniel, 529 U.S. 473, 484 (2000)), cert. denied, 122 S. Ct. 318 (2001).

We have reviewed the record and conclude for the reasons stated by the district court that Oriakhi has not made the requisite showing. See United States v. Oriakhi, Nos. CR-90-72; CA-02-2602-PJM (D. Md. filed Aug. 16, 2002; entered Aug. 19, 2002). Accordingly, we deny a certificate of appealability and dismiss the

appeal. We dispense with oral argument because the facts and legal contentions are adequately presented in the materials before the court and argument would not aid the decisional process.

DISMISSED